

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF ILLINOIS  
EASTERN DIVISION

WILLIAM E. DUGAN, <i>et al.</i> ,	)	
	)	
Plaintiffs,	)	
	)	
vs.	)	CIVIL ACTION
	)	
REGAN BRUSKI, an individual, d/b/a BB	)	NO. 07 C 6162
EXCAVATING, INC., a dissolved corpora-	)	
tion and JEREMY BRUSKI, an individual,	)	JUDGE REBECCA R. PALLMEYER
d/b/a BB EXCAVATING, INC., a	)	
dissolved corporation,	)	
	)	
Defendants.	)	

AFFIDAVIT

STATE OF ILLINOIS     )  
                                  ) SS.  
COUNTY OF COOK     )

DAVID S. BODLEY, being first duly sworn upon his oath, deposes and states:

1. He is now, and has since the first day of May, 1999, been employed by the Trustees of the Midwest Operating Engineers Fringe Benefit Funds as administrative manager, and in such capacity, has personal knowledge of the matters hereinafter set forth and if called as a witness in the instant proceedings is competent to testify in respect thereto.

2. He has read the Complaint filed in this cause, and knows of his own personal knowledge the contents of the collective bargaining agreements and Agreements and Declarations of Trust and all facts alleged therein, and if called and sworn as a witness is competent to testify thereto.

3. He is charged with keeping and maintaining records of contributions received by the Plaintiff Funds, maintains individual records on each person, firm and corporation required to make contributions to said Plaintiff Funds, receives and records contribution reports made by such persons, firms or corporations, and has under his supervision and direction all books, records, documents and papers relating to such Plaintiff Funds.

4. He has examined the accounts of Defendants in the above-entitled cause, and states that said Defendants are required to submit monthly fringe benefit contribution reports under the terms of the collective bargaining agreement.

5. Defendants have submitted monthly fringe benefit contribution reports for the months of June 2007, September 2007 and October 2007, but have failed to submit all contributions due as set forth below:

	<u>Contributions</u>
Welfare Fund	\$12,270.00
Pension Fund	\$ 7,530.00
Apprenticeship Fund	\$ 1,260.00

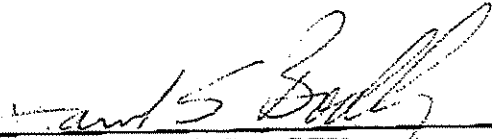
6. Pursuant to the Trust Agreements, he has assessed a liquidated damages surcharge against the Defendants in the amount of ten (10%) percent of all contributions due and unpaid and all contributions which were paid late, for the months of July 2007 through October 2007, in amounts set forth below:

	<u>Liquidated Damages</u>
Welfare Fund	\$2,184.00
Pension Fund	\$1,452.00
Apprenticeship Fund	\$ 168.00

7. He is duly authorized by Plaintiffs in this behalf, has personal knowledge of the matters set forth above and if called as a witness in this cause, is competent to testify thereto.

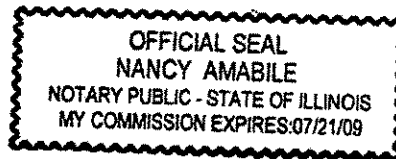
8. He makes this Affidavit in support of the application of Plaintiffs for entry of default and judgment and requests this Court to consider the same as proof in support of the allegations contained in the Complaint of the Plaintiffs and such other facts herein set forth.

FURTHER AFFIANT SAYETH NOT.

  
\_\_\_\_\_  
DAVID S. BODLEY

SUBSCRIBED AND SWORN  
TO before me this 3rd  
day of December, 2007.

  
\_\_\_\_\_  
NOTARY PUBLIC



I:\MOE\BB Excavating\bodley affidavit.bpa.df.wpd

**CERTIFICATE OF SERVICE**

The undersigned, an attorney of record, hereby certifies that she electronically filed the foregoing document (Affidavit of David S. Bodley) with the Clerk of Court using the CM/ECF system, and further certifies that I have mailed the above-referenced document by United States Mail to the following non-CM/ECF participants on or before the hour of 5:00 p.m. this 4th day of December 2007:

Ms. Regan Bruski, d/b/a BB Excavating, Inc.  
3805 Standish Road  
Marengo, IL 60152

Mr. Jeremy Bruski, d/b/a BB Excavating, Inc.  
3805 Standish Road  
Marengo, IL 60152

/s/ Beverly P. Alfon

Beverly P. Alfon  
Attorney for Plaintiffs  
BAUM SIGMAN AUERBACH & NEUMAN, LTD.  
200 West Adams Street, Suite 2200  
Chicago, IL 60606-5231  
Bar No.: 6274459  
Telephone: (312) 236-4316  
Facsimile: (312) 236-0241  
E-Mail: [balfon@baumsigman.com](mailto:balfon@baumsigman.com)